

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	
DIABETES AMERICA, INC.,	§	CASE NO. 10-41521-H1-11
	§	
Debtor.	§	
<hr/>		
H. MALCOLM LOVETT, JR.,	§	
PLAN AGENT,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	ADVERSARY NO. 12-3284
	§	
CARDINAL HEALTH 411, INC. D/B/A	§	
CARDINAL HEALTH	§	
PHARMACEUTICAL DISTRIBUTION,	§	
	§	
Defendant.	§	

JOINT MOTION TO DISMISS ADVERSARY PROCEEDING

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

**To the Honorable Marvin Isgur,
United States Bankruptcy Judge:**

H. Malcolm Lovett, Jr., Plan Agent (the “Plan Agent”) under Diabetes America, Inc.’s
(the “Debtor”) Second Amended Chapter 11 Plan of Liquidation and Cardinal Health 411, Inc.

d/b/a Cardinal Health Pharmaceutical Distribution (the “Defendant”) file this Joint Motion to Dismiss Adversary Proceeding.

Requested Relief

1. The Plan Agent and the Defendant have reached a settlement resolving the claims in this adversary proceeding. The agreement has been approved by the post-confirmation committee pursuant to Article 8.2 of the Plan. Pursuant to the terms of the settlement agreement, this adversary proceeding is to be dismissed with prejudice with each party to bear its respective costs.

2. Accordingly, the Trustee and the Defendant request (i) that this adversary proceeding be dismissed with prejudice, with each party to bear its respective costs; (ii) upon the dismissal, that this adversary proceeding be closed; and (iii) such other relief as is just.

Dated: April 30, 2014

Porter Hedges LLP

By: /s/ Joshua W. Wolfshohl
Joshua W. Wolfshohl
State Bar No. 24038592
Aaron J. Power
State Bar No. 24058058
1000 Main Street, 36th Floor
Houston, Texas 77002
(713) 226-6653
(713) 226-6253 (fax)
Counsel for the Plan Agent

and

Haynes and Boone LLP

/s/ Robert D. Albergotti

Robert D. Albergotti

State Bar No. 00969800

2323 Victory Avenue, Suite 700

Dallas, TX 75219-7673

214-651-5613

Fax : 214-200-0350

Counsel for the Defendant